IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 2947 OF 2001

IDL Salzbau (India) Ltd. ...Applicant.

V/s

Shri Raman Narayan & anr. ...Respondents.

Ms. Dimple with Ms. Meherji i/b M/s Gagrat & Co. for the applicants.

Mr. D.P. Adsule for the State.

CORAM: V.M.KANADE,J.

DATE: 22/03/2005

P.C.:

1. Applicants are challenging the judgement and order passed by the Metropolitan Magistrate, 14th Court, Girgaum, Mumbai who has acquitted the respondent No.1 - accused of the offence punishable under section 630 of the Companies Act.

2. Brief facts are that the respondent No.1 who was working as a Managing Director was given the Flat belonging to IDL Salzbau (India) Limited. The accused resigned from the service of the Company some time in 1994. A suit was filed in this Court by the complainant to recover possession of the flat. The other relief by way of mesne profit was also claimed in the said suit. Respondent No.1 handed over the possession of the disputed flat on 14/2/1998 to the

complainant. During the trial, both the parties led evidence and they also submitted their written arguments. The Trial Court, after going through the written arguments and the evidence adduced by the complainant acquitted the accused of the offence punishable under section 630 of the Companies Act.

3. The learned Counsel appearing on behalf of the applicant has taken me through the judgment and order of the Trial Court as also evidence adduced by the complainant which is annexed to the application for leave to appeal. After going through the evidence on record, it can be seen that there was an agreement of leave and licence between the complainant No.1 and complainant No.2. The accused No.1 was working with IDL Salzbau (India) Limited which was a subsidiary of the complainant and the State. The leave and licence agreement was executed between the complainant No.1 and complainant No.2 in which it was agreed that the complainant No.1 would pay licence fee @ Rs 7,200/- per month from 1st October, 1991 onwards. The accused has relied on this agreement. If this evidence is taken into consideration, no cause of action has arisen against the accused. The flat in question was owned by complainant No.2 and the complainant No.1 was a licencee.

4. The Trial Court, in my view, therefore, has not committed any error in acquitting the accused of the offence punishable under section 630 of the Companies Act. It is an admitted position that the accused has handed over the possession of the flat on 14/2/1998. The accused was working with complainant No.1 since 1984. Taking an over all view of the matter, I do not see any reason to interfere with the order passed by the Trial Court. Leave is, therefore, refused.

Appeal is dismissed.

V.M. KANADE, J.